

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-223-C – ORDER NO. 1999-632
SEPTEMBER 9, 1999

IN RE: Application of Tin Can Communications Company, LLC) ORDER ✓ MR
 To Provide Local Exchange Telecommunications Services) GRANTING
 Within the State of South Carolina) CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Tin Can Communications Company, LLC (“Tin Can” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold local exchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1998) and the Regulations of the Commission.

By letter, the Commission’s Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Tin Can complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”). On July 29, 1999, Counsel for SCTC filed with the Commission a Stipulation in which Tin Can stipulated that it would seek authority only in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer

located in a rural incumbent's service area, unless and until the Company provided written notice of its intent prior to the date of the intended service. Tin Can also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Tin Can agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on August 26, 1999, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Tin Can was represented by John J. Pringle, Jr., Esquire. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

James T. Mahan, General Manager of Tin Can, appeared and testified in support of Tin Can's application. The record reveals that Tin Can is a Texas corporation which has authority from the South Carolina Secretary of State to transact business in South Carolina. At this time the Company seeks to provide pre-paid local dial tone services in South Carolina primarily to residential customers. As of the hearing date, the Company had received certification to provide telecommunications services in a number of states, including Texas, Oklahoma, Arkansas, Kansas, Missouri, Florida, California, Alabama, Arizona, and Kentucky. The Company is currently providing its services in Texas, Arkansas, Kansas, Missouri, and Oklahoma.

Mr. Mahan testified further that as of July 31, 1999, the Company's revenue exceeded one million dollars and the Company had profits that totaled a little over one hundred thousand dollars. The Company expected profits for 1999 to exceed two hundred thousand dollars. Tin Can plans to market its services in South Carolina through television, print media, and independent agents. Independent sales agents will enter into a contract with the Company whereby the agent shall be responsible for and obligated to operate under the laws of South Carolina and the agent shall abide by all the rules and regulations of the South Carolina Public Service Commission. Tin Can will operate its own billing service and customer service department. The customer service department is currently available from 7:30 a.m. until 7:00 p.m. central standard time and employs thirteen people.

Tin Can has an interconnection agreement with BellSouth. It will offer operator services primarily to residential customers. Mr. Mahan testified further that if the Commission Staff has questions regarding complaints from Tin Can's customers, regulatory issues, or financial information, it should contact James T. Mahan. In addition, the Company requests that the Commission waive 26 S.C. Code Regs. 103-610 (1976) and 26 S.C. Code Regs. 103-631 (Supp. 1998). Waiver of these two regulations would allow the Company to maintain its records in Houston, Texas and permit the incumbent local exchange carrier to publish the names, addresses and telephone numbers of Tin Can's customers.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Commission finds Tin Can is organized as a corporation under the laws of the State of Texas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. The Commission finds Tin Can has the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280 (B)(1) (Supp. 1998).

3. The Commission finds Tin Can will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B) (Supp. 1998).

4. The Commission finds that Tin Can's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).

5. The Commission finds that Tin Can will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280 (B)(4) (Supp. 1998).

6. The Commission finds that the provision of local exchange service by Tin Can "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280 (B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Tin Can to provide competitive intrastate local exchange services in the non-rural local exchange areas of South Carolina. The

terms of the Stipulation between Tin Can and SCTC are approved, and adopted as a portion of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

2. Tin Can shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. Tin Can shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Tin Can shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Tin Can shall file with the Commission the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Tin Can shall promptly notify the Commission in writing if the representatives are replaced.

4. Tin Can is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. Tin Can shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

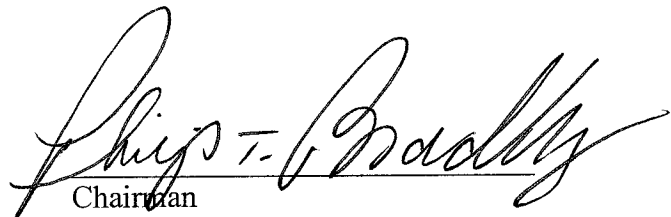
6. By its Application, Tin Can requested waivers from Commission requirements (1) of publishing a directory, (2) of maintaining records required under the Commission Rules to be kept within the State, and (3) of maintaining its books and records in conformance with the Uniform System of Accounts. The Commission grants waivers for these three areas. Tin Can also requested a waiver of certain reporting requirements not applicable to competitive carriers. The Commission denies the Company waiver of reporting requirements that are required of incumbent LECs. Tin Can is directed to comply with all Commission regulations unless expressly waived by the Commission.

7. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Tin Can to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this order and prior to providing services within South Carolina, Tin Can, shall contact the 911 Coordinator in each county, as well as the

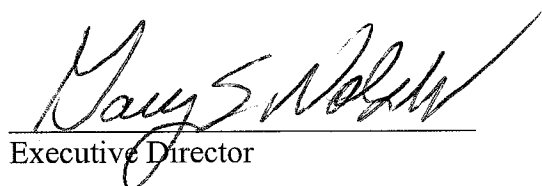
911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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SEPTEMBER 9, 1999

ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-223-C

Re: Application of Tin Can Communications Company, LLC)
 for a Certificate of Public Convenience and Necessity to)
 Provide Local Exchange Telecommunications Services) **STIPULATION**
 in the State of South Carolina)
_____)

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Tin Can Communications Company, LLC ("Tin Can") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Tin Can's Application. SCTC and Tin Can stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Tin Can, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Tin Can stipulates and agrees that any Certificate which may be granted will authorize Tin Can to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Tin Can stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Tin Can stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Tin Can provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Tin Can acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Tin Can stipulates and agrees that if, after Tin Can gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Tin Can will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Tin Can acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained

herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Tin Can agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Tin Can hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 29th day of July, 1999.

Tin Can Communications Company, LLC

John J. Pringle, Jr.

South Carolina Telephone Coalition:

Margaret M. Fox

M. John Bowen, Jr.

Margaret M. Fox

McNair Law Firm, P.A.

Post Office Box 11390

(803) 799-9800

Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A
South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company